

***THE HON'BLE SRI JUSTICE B. PRAKASH RAO**

AND

***THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY**

+WRIT PETITION No.2012 of 2000

% Dated 22.01.2007

S. Anjaiah (died)

S. Pentamma and three others.

.. Petitioners.

And

\$ The Special Court under A.P. Land Grabbing (Prohibition) Act, II Floor, B.R.K.R. Government Offices Complex, Tank Bund Road, Hyderabad, rep. by its Registrar and seven others.

.. Respondents.

! Counsel for the Petitioners : A.V. Sessa Sai

^ Counsel for the respondents: O. Manohar Reddy

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? Cases Referred.

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Tank Bund Road, Hyderabad, rep. by its Registrar and
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.. Respondents.

ORDER: (Per Hon'ble Sri Justice B.Prakash Rao)

The original petitioner, who filed this Writ Petition, is the un-successful applicant before the Special Court under the A.P. Land Grabbing (Prohibition) Act, 1982. Subsequent to filing of this Writ Petition, the original petitioner died and petitioner Nos.2 to 5 were brought on record as legal heirs. Later the 2nd petitioner, who is the wife of the original petitioner and who has been added as legal heir, also died on 02.01.2006. Since petitioner Nos. 3 to 5-the legal representatives were already on record and on a memo dated 09.11.2006 filed on behalf of the petitioners, the said petitioners are treated and recorded as her legal representatives.

In the application purported to be filed under Section 8(1) of the A.P. Land Grabbing (Prohibition) Act before the said Special Court, the applicant sought a declaration as to ownership in respect of the schedule property, consisting of land in Sy.Nos.656 to 660 totally admeasuring 23.30 guntas situated at Dabirpur, Medchal Mandal, Ranga Reddy district and sought possession thereof alleging that

respondent Nos.1 to 7 are the land grabbers and consequently to take appropriate action for punishment.

The case of the applicant was to the effect that the said land originally belonged to late Sattrapu Chandraiah, who died leaving behind the applicant as the legal heir. The name of Sattrapu Chandraiah was shown as pattadar in the Sethwar and Wasulbaki of 1354 fasli and there have been entries in their favour in the pahanis from the years 1950 to 1966. Subsequent to the death of the applicant's father, on an application being filed seeking mutation where respondent Nos.2 and 3 filed objections, the same were ordered overruling the objections and due entries were made in the patta column. Even in the land ceiling proceedings, the said land has been shown. However, respondent Nos.2 and 3 along with one Smt. P. Chittemma filed a suit in O.S.No.26 of 1983 on the file of the VI Additional Judge, City Civil Court, Hyderabad seeking declaration of title and injunction, which was re-numbered as O.S.No.393 of 1983 and the same was decreed on 27.06.1990 though rejecting their claim as to title, however holding that the father of the said plaintiff was a tenant and they should be entitled to retain possession and enjoyment

till they are evicted under due process of law. Therefore, the applicant claimed that the said respondents could not set up any title. Once again, there have been certain proceedings in regard to the erroneous entries in the pahanis for the subsequent years where rectification was sought. The applicant has come to know that respondent Nos.2 and 3 and P. Chittemma sold the said land to an extent of 18.19 cents in R.S.Nos.565 to 660 under a registered sale deed dated 14.06.1991 in favour of respondent Nos.4 to 6. All the respondents have illegally grabbed the land. Therefore, none of the respondents are having any justification to be in possession and having regard to the said acts of grabbing, the applicant is entitled for possession of the land. Hence, the application.

Contesting the claim, respondent Nos.2 to 8 denied the entire claim of the applicant and set up right, title and possession on their own in pursuance of the purchase made under the aforesaid sale apart from the fact that originally respondent Nos.2 and 3 are the tenants as per the finding of the civil Court and therefore, they are in possession in their own right and question of any grabbing or illegal

occupation does not arise. Further, it was stated that the applicant never resided in the village nor cultivated the land at any point of time. Hence, the applicant is not entitled to any relief.

With these and other allegations as made in detail in respect of the pleadings, the Special Court framed the issues and the parties went into trial where the applicant was examined as P.W.1 and marked Exs.A.1 to A.48 whereas on behalf on of the contesting respondents, R.Ws.1 to 3 were examined and Exs.B.1 to B.32 were marked.

On a consideration of the entire evidence and the material on record, the Special Court rejected the application mainly on the ground that the dispute ultimately is the one which arises between the landlord and the tenant covered under the provisions of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for brevity 'the Tenancy Act') which cannot be gone into by the Special Court under the provisions of the A.P. Land Grabbing (Prohibition) Act, 1982 and directed to avail the remedies under the said Tenancy Act.

Sri A.V.Sesha Sai, learned counsel appearing on behalf of the petitioners strenuously contended by taking

this Court in detail through the facts of the case vis-à-vis the various documents to show that the applicant is the absolute owner as can be evident from the various documents filed which includes Sethwar, Wasulbaki, entries in the pahanis, mutation and the several other proceedings including that of the civil Court and therefore, the Special Court was not right in holding that it has no jurisdiction to go into such question and therefore, there could not have been any such direction to avail the remedies under the provisions of the Tenancy Act.

Repelling the said contentions, the case of the respondents is to the effect that the Court below has rightly found that the claim either way ultimately narrows down to between the landlord and the tenant involving rights duly provided for under tenancy which cannot be gone into by the special Court and hence rightly rejected the same.

With the aforesaid submissions, the other detailed submissions made on either side and on perusal of the material available on record, the question which arises for consideration in this Writ Petition is as to whether on the facts and circumstances, the application as has been

framed and filed by the original applicant purported to be under Section 8 (1) of the A.P. Land Grabbing (Prohibition) Act, 1982 is maintainable ?

There is no dispute in regard to the various chequered events as pointed out earlier and there is no dispute primarily that Sattrapu Chandraiah through whom the petitioners' claim was the original owner obviously a landholder. Similarly, there is no serious dispute in regard to the fact that respondent Nos.2 and 3 are the tenants and the land is that of agricultural land and the provisions of the A.P. (TA) Tenancy and Agricultural Lands Act, 1980 squarely applicable. Even as per the findings in the suit filed by respondent Nos.2 and 3 through their mother in O.S.No.393 of 1983, it was held that respondent Nos.2 and 3 are the tenants duly protected under the said Tenancy Law and they are entitled to remain in possession till they are evicted under due process of law. On behalf of the respondents, Ex.B.1- protected tenancy certificate under the said Tenancy Act was filed. No-doubt, there have been certain mutation proceedings both at the instance of the original applicant and by the respondents. However, they themselves would not in any way constitute a source of title

nor would it in any way affect the rights under the special enactments i.e., the Tenancy Act. Therefore, having regard to the admitted original relationship between the original parties through whom both the sides' claim traces to a relationship of landlord and tenant as provided under the provisions of the Tenancy Act. The other respondents, no-doubt, claimed to have purchased the land from respondent Nos.2 and 3, however, ultimately it only follows that they are claiming only through protected tenant. The question as to whether such sale is valid or not does not arise in the present proceedings since it is not necessary to be gone into. No-doubt, such sales are squarely hit under the provisions of the Tenancy Act and the rights of the original protected tenants are well guarded. However, having regard to the nature of claim as sought to be put by the petitioners herein against the respondents, it only culls out that though they approached the Special Tribunal on the basis of their absolute right, title and interest, it is quite surprising to note that they have suppressed the factum of original trace of relationship as arising between a landlord and tenant as per the provisions of the Tenancy Act

between the original owner Sattrapu Chandraiah and respondent Nos.2 and 3. All the documents filed on behalf of the petitioners would only land them in the lap of the original landholder. No explanation of whatsoever is forthcoming in respect of tenancy rights as existed. Therefore, it follows that both the sides have virtually stepped into the shoes of their respective predecessors-in-title in the capacities as landlord and tenant alone. Therefore, the petitioners herein could not have possibly approached on any such independent claim on the basis of mere title before the Special Court under the provisions of the said Act and seek any relief against the respondents whose rights are sufficiently protected under the provisions of the Tenancy Act. Necessarily as rightly observed by the Tribunal, the remedy, if any, to the petitioners would lie elsewhere but not under the provisions of the A.P. Land Grabbing (Prohibition) Act and the authorities constituted there under could not go into any such questions arising between the landlord and tenant or any of their successors-in-interest. Where a special beneficial statute governs the field with all its trappings for remedies to be worked out,

neither any remedy provided under common law nor the expeditious remedies contemplated under the Land Grabbing Law would have any application. Having regard to the same, we do not find any merits in the very claim as sought to be set up nor there is any justification on behalf of the petitioners herein to claim that the contesting respondents are the land grabbers as long as their possession relates back and strongly rests on the pedestal of tenancy rights as protected statutorily. Therefore, the very application is totally misconceived. Thus, the Writ Petition fails.

The Writ Petition is accordingly dismissed. No costs.

B. PRAKASH RAO, J

M. VENKATESWARA REDDY, J

22nd January 2007.
Chvn.

Note:
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B/o
Chvn.